



WASHOE COUNTY BOARD OF ADJUSTMENT DRAFT Minutes

Thursday, August 5, 2021
1:30 p.m.

Board of Adjustment Members

Kristina Hill, Chair
Clay Thomas, Vice-Chair
Don Christensen
Rob Pierce
Brad Stanley
Secretary
Trevor Lloyd

Washoe County Administrative Complex
Commission Chambers
1001 East Ninth Street, Building A
Reno, NV 89512

and available via
Zoom Teleconference

The Washoe County Board of Adjustment met in a scheduled session on Thursday, August 5, 2021, in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada and via Zoom teleconference.

1. Determination of Quorum [Non-action item]

Chair Hill called the meeting to order at 1:30 p.m. The following members and staff were present:

Members Present: Kristina Hill, Chair – via Zoom
Clay Thomas – Vice-Chair
Don Christensen
Rob Pierce
Brad Stanley

Staff Present: Julee Olander, Planner, Planning and Building Division
Trevor Lloyd, Planning Manager, Planning and Building Division
Michael Large, Deputy District Attorney, District Attorney's Office
Donna Fagan, Recording Secretary, Planning and Building Division
Lacey Kerfoot, Recording Secretary, Planning and Building Division

2. Pledge of Allegiance [Non-action item]

Chair Hill led the pledge of allegiance.

3. Ethics Law Announcement [Non-action item]

DDA Michael Large recited the Ethics Law standards.

4. Appeal Procedure [Non-action item]

Trevor Lloyd recited the appeal procedure for items heard before the Board of Adjustment.

5. Public Comment [Non-action item]

With no requests for public comment, Chair Hill closed public comment.

6. Approval of the Agenda [For possible action]

Trevor Lloyd stated the applicant for item 9A had requested the item be withdrawn from the agenda. He asked the applicant if that was their request. Chair Hill, the applicant said yes, she would like the application withdrawn. Member Thomas moved to approve the agenda of August 5, 2021 with item 9A being withdrawn. Member Stanley seconded the motion which carried unanimously.

7. Approval of the July 1, 2021 Draft Minutes [For possible action]

Member Thomas moved to approve the minutes of July 1, 2021 as written. Member Pierce seconded the motion which carried unanimously.

8. Planning Items [For possible action]

A. Discussion on Zoom (hybrid) Meetings [For possible action]

Trevor Lloyd introduced the item and asked the Board of Adjustment if they have an opinion regarding their preference for attendance via Zoom or in-chambers. Chair Hill stated it's a great opportunity and appreciate the fact that she can use Zoom and still participate. She noted that Zoom is favorable. Member Pierce agreed. He said the hybrid model is acceptable. Member Christensen stated there are limitations and whenever possible, to encourage participation, staff should be present in order to hear them clearly. He stated with the flu season approaching, he understands if Zoom has to be used. He stated he prefers in-person meetings. Member Stanley agreed with Member Christensen. He stated he would like in-person for transparency purposes with hybrid as a back-up plan. Member Thomas said he agrees with the comments. He stated we meet once a month. He stated he prefers face-to-face communication. He states this is the wave of the future and the process to allow people to speak, however, Zoom has slowed the process down. He stated he prefers in-chambers with Zoom allowed. Mr. Lloyd thanked them for their comments.

With no request for public comment, Chair Hill closed public comment.

Member Pierce moved to continue the hybrid meeting process. Chair Hill seconded the motion which carried unanimously.

9. Public Hearing Items [For possible action]

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a future agenda.

A. Administrative Permit Case Number WADMIN21-0008 (Tahoe Forum) [For possible action] – For hearing, discussion, and possible action to approve an administrative permit for an outdoor community event for the Tahoe Forum featuring speaker Sir Richard Branson. The free event will be held at the Sierra Nevada College campus at 291 Country Club Drive on September 18, 2021, from 2:00 p.m. to 4:00 p.m. with approximately 800 people in attendance. Parking will be available at the Sierra Nevada College campus parking lot, Cornerstone Church parking lot, Incline Village General Improvement District Recreation Center parking lot, and along Country Club Drive and Incline Way.

- Applicant: Kristina Hill
- Property Owner: Sierra Nevada College
- Location: 999 Tahoe Blvd.
- APN: 127-040-10
- Parcel Size: 1.1 acres
- Master Plan: Tourist
- Regulatory Zone: Incline Village Tourist (TA IVT)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay

- Development Code: Authorized in Article 808, Administrative Permits
- Commission District: 1 – Commissioner Hill
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3627
- Email: jolander@washoecounty.us

This item was withdrawn.

B. Amendment of Conditions Case Number WAC21-0004 (Greenview Garages) [For possible action] – For hearing, discussion, and possible action to approve an amendment of conditions for the Greenview Homeowners Association (HOA), Case Number WPVAR19-0001 to extend the approval for two additional years, until June 4, 2023. The original approval was to reduce the required front and side yard setback at 692 Palmer Court, Incline Village to allow for the construction of two car garages, a 2-car garage and a 1-car garage.

- Applicant: Greenview HOA
- Property Owner: Malinowski Family Living Trust
- Location: 692 Palmer Ct.
- APN: 128-310-05
- Parcel Size: 4,356 sq. ft.
- Master Plan: Residential
- Regulatory Zone: Incline Village #3
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804 (Variances)
- Commission District: 1 – Commissioner Hill
- Staff: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building
- Phone: 775.328.3627
- Email: jolander@washoecounty.us

Julee Olander provided a staff report presentation.

Chair Hill inquired about the June 28th letter from State Lands. Ms. Olander noted there were no conditions added. State Lands is opposed to this variance. Ms. Olander noted this isn't a review of the variance; this is only review of the time extension. She noted she spoke with Sherri Barker. Comments were received, but no new conditions.

Member Christensen asked when this plan was submitted. Ms. Olander noted the most recent variance came before the Board of Adjustment in 2019. She added that it came in previously; however, changes were made to sizes of the garages. The applicant came up with this new solution which came before the Board which was denied, and then appealed to the County Commission and approved.

Member Stanley asked who the other agencies are who have to sign off on this. Ms. Olander stated it's primarily the Washoe County Building Department when the applicant submits building plans and TRPA.

Kevin Agan, the applicant representative, spoke about the reasoning for the extension request. He noted TRPA requested additional information. One of the conditions of approval is to get TRPA approval, therefore, an extension is needed. He noted they need permits for 2022 construction.

Member Thomas asked about the construction timeline. He asked if a one-year extension would suffice. Mr. Agan stated the permitting process takes longer in Lake Tahoe than rules and procedures allows. He stated timelines aren't kept due to lack of resources. He stated he is requesting a cushion, so he doesn't have to come back to request another extension. He stated they are required to get TRPA permit approval.

Member Stanley asked if the changes would impact the development documents submitted for approval. Mr. Agan said no. He said it's mostly detail components that will comply with TRPA standards.

Member Christensen asked what has been going on with the application to the TRPA while you waited for the appeal. Mr. Agan stated he was contacted by the applicant in March. He said the homeowners' association has been directly taking this charge until March/April when he was contacted. They have been trying to understand the TRPA process. He said he is inheriting and repackaging and updating the application to comply with TRPA standards so they can wrap up the Washoe County process. He said he cannot answer for the delay in the process. He stated they had said COVID has impacted their progress. Member Christensen stated he is baffled why they should kick the can down the road for two more years. He said he would think they would want to expedite the process so they can park in the garage during the snow. He asked what would happen in two years. He said he doesn't understand why this hasn't moved more quickly. He said the building season is short. Mr. Agan stated they are 80-90% done with TRPA and don't need an extension from them. He said he has done permitting for 30 years. He said he can get it done in one-year but would like a cushion, so they don't have to come back again. He said he is still working through stuff with TRPA.

Mr. Lloyd said these requests are very common. The nature of development and construction when dealing with permitting with other agencies, such as TRPA, there needs to be flexibility. If the request is appropriate or if there were significant changes that would be determined if those changes would warrant an extension of time or not. Chair Hill said TRPA is really falling behind. They aren't open to public. It's done electronically. Staff is overwhelmed. They are taking over four months to review plans. She said if Kevin has a complete application in September, that is when they will begin their review and then it will take four months. They will be lucky if they get permit by 2022. TRPA is backlogged. Mr. Agan said he thought they were further along on initial review with additional items and updated information so they can deem it complete, then their 120-day review can begin. Chair Hill said that won't begin until he submits the application in September. It's a 4-5-month process. They are all working at home now. She said she wanted to add that it's a timing issue with TRPA.

Member Thomas asked for clarification. He thought within conditions of approval on other projects there was an identified timeframe included when it's no longer valid. Mr. Lloyd stated it is two years and it's written in code. Member Thomas stated that if this went before the Board of County Commissioners in 2019 and was approved at that time, would that not set the clock at a two-year period. Mr. Lloyd stated it would set the clock at the time that the Clerk's letter is signed. He stated he doesn't know the exact date, but for references, the applicant had submitted the application prior to the expiration date. That acts as a place holder for the application for extension. The expiration period has passed from today's date, but they had gotten the application in and that has been the practice of our department.

Member Thomas stated it's 28 months out. He asked the reason for no action after it was approved by the County Commissioners in May 2019. Mr. Agan stated they had to develop and submit a package to TRPA in that timeframe. In March, TRPA responded with a list of responses to that. He said after that, the applicants contacted him and he started. He said he reviewed what the County and TRPA required and saw that the timing was coming up in August. He said he had been in communication with TRPA and the County regarding preserving the approval by County Commissioners and requesting this extension to comply while he got TRPA permit approval. He said it's been a combination of homeowners and TRPA requirements in a separate application process.

Member Stanley inquired about the list provided by TRPA and the process and timing on responding to their request. Mr. Agan noted he has the list and some of the items are not appropriate, so they have to respond and provide information where deficient. He said there are details and components as part of the project.

Chair Hill opened public comment.

Sherri Barker, Tahoe Land Agent with Nevada Tahoe Resource Team, the State of Nevada, acting through State Lands, Nevada Tahoe Resource Team manages 500 urban lot holdings in the Lake Tahoe Basin through the Tahoe Bond Act of 1986. These public lands are designated as conservation areas and are maintained in their natural state as open space in perpetuity. The management direction of these parcels in the Tahoe Basin contains specific goals and measures of success. These objectives and measures of success can only be achieved with cooperation from the local community and support from other government agencies. Encroachments such as heavy equipment activity, storage, building materials, excessive foot traffic can be detrimental to State owned property and reversing many years of management. The Nevada Tahoe Resource Team has identified one area of concern on the site plans that were included for our review and comment from Greenview HOA. The item of concern involves the request to the northwest setback from 15 feet to 1.5 feet to accommodate the construction of a two-car garage. Construction access disturbance on the State of Nevada parcel cannot be authorized. This includes any access for foundation, excavation, or general construction access or parking on the site. Research conducted has reveal that since 2006 several previously granted Washoe County variance requests has caused considerable damage to parcels resulting in numerous hours of staff time and resources to rectify it. The most egregious of these cases occurred in 2007 when a variance was granted by Washoe County to a homeowner in Crystal Bay. The variance allowed for a sideyard setback of 2 feet adjacent to a State Land parcel. Later it was discovered that an access road had been cut into the State-owned parcel by the contractor who knowingly tried to hide it. It took countless hours to try to restore this parcel and may never recover. A homeowner that was granted a zero-foot setback variance in Incline Village tried to remove a health Jeffery Pine tree from the adjacent State-owned lot. The effects of encroachment are long lasting and could take decades to reverse. She said she is here to ask other governmental agencies to recognize our long-term management goals of the urban lot holdings. She said she realizes that not all variances cause a problem; however, it takes one case to cost hours and dollars spent to correct a negative impact to delay our treatment goals during a short treatment season. The Nevada Tahoe Resource Team asks the Board of Adjustment take a firm stance against variances by Washoe County that may affect State sensitive lands in the Tahoe basin be rejected. Nevada Division of State Lands is formally requesting that Washoe County deny the variance, extension request for Greenview garages. Thank you.

Scott Carey, State Lands Planner, stated he is going to focus on the findings. He said in 2019, our agency was opposed and provided testimony because the proposed garage will have an impact on adjacent land. We appreciate the Board's original decision of denial and hope they strongly consider our concerns. We respectfully disagree with staff's recommendation of approval for extension. The site does not possess the special circumstance that justify granting an extension for the variance. Its our opinion the configuration of the subject site in the future could allow for construction of garages and could meet the County's setback. We believe an extension is not needed for an additional two years. We disagree with the proposed variance that it won't create a detriment on the surrounding area. He said Sherri Barker's letter does a good job outlining the impacts. He said we believe that extending this variance would have a negative impact on the State's conservation goals. The State believes granting an extension for approval of a reduced setback is going to have an impact on the adjacent state property and create encroachment issues and lead to negative impacts. The proposed time extension will have a detriment with adjacent properties which is not consistent with the required findings that there is no detriment to surrounding lands. Thank you to Washoe County Planning staff for working with us to address our concerns to get before the board today.

With no further request for public comment, Chair Hill closed public comment.

Member Stanley asked a process question. He asked if TRPA requirements override Washoe County from what was disapproved here and approved by Board of County Commissioners. Does TRPA override what has been agreed upon. Mr. Lloyd stated that TRPA may have their own set of rules that they are looking at other than what Washoe County is looking at. The applicants have the obligations to meet those set of standards. Member Stanley stated a two year extension sounds appropriate considering what we've heard about TRPA's backlog. However, for various reasons, if the extension is denied, what is the process. Mr. Lloyd stated they could appeal to the Board of County Commissioners or resubmit a new application. He stated their best bet is the appeal. He said they are coming before you to determine if an extension of time is appropriate, not to re-litigate the findings determined as satisfied by the Board of County Commissioners.

Member Thomas said they have a lot of requests to adjust the setbacks in Incline Village. He inquired if the application gets delayed by TRPA would they have to come back before us if it exceeds their time limit. DDA Large confirmed.

Chair Hill stated she has sympathy for the State Lands position. She asked if they have to make the findings. She stated we didn't make the findings last time and the project hasn't changed other than Board of County Commission approved it. DDA Large stated the only thing before this Board is the extension of time. The findings still have to be made in regard to the two year extension and if it would be a detriment. The underlying variance has already been approved.

Member Pierce asked if the Board are supposed to find all five findings. He said the motion says three findings. DDA Large stated its all five findings – special circumstance, no detriment, no special privileges, use authorized, and effect of military installation.

Member Pierce stated they are only here to look at the extension. If the TRPA denies their permit, that's their deal. Member Stanley stated the remarks around TRPA were about if two years is enough time. Member Pierce stated if there isn't enough time, they can come back.

Member Thomas stated his numerous years on this Board and many variances effected by TRPA, he said he hasn't seen a case that had to come back, rather, they managed to do it within the timeframe that was within the conditions. However, this is unique. There was the pandemic and other things that got in the way. He said State Lands have given us valued information which was taken into consideration the first time and we denied the request, but it was appealed by the Board of County Commissioners. The State Lands issue is not before us today; we agree with them, but it's not part of the extension. The applicant was concerned with winters up there. There have been two winters since their application was submitted. The applicant submitted an application, it was heard by Board of Adjustment, denied, and approved by Board of County Commissioners. Their timeframe is run out and they are asking for an extension. If they deny the extension then ultimately, the applicant resubmits again and bring it back before Board of Adjustment and hear it again and possibly deny it again. The Board of County Commissioners could approve it. He said by denying it at this point in time, what are we going to gain. The decision needs to be made. The Board needs to decide the amount of time. Chair Hill stated they should stick with what was requested which was two years. The agencies are backed up and taking a lot of time. There are other challenges with getting a contractor in Incline Village. She said two years is reasonable. Hopefully they will complete it in one year. Chair Hill said she agrees with Member Thomas. It will take more time and money to re-do the same thing.

Member Pierce moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Amendment of Conditions Case Number WAC21-0004 for Greenview HOA with the conditions included as Exhibit A to this matter, having made all three findings in accordance with Washoe County Code Section 110.110.804.25. Member Thomas seconded the motion which carried. Four in favor; one opposed. Member Christensen opposed.

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;

2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;

3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;

4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;

5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

Member Thomas asked if State Lands could appeal this decision. Mr. Lloyd confirmed and read the appeal procedures.

10. Chair and Board Items [Non-action item]

A. Future Agenda Items

None

B. Requests for Information from Staff

Member Thomas recommended including the minutes from the previous Board of Adjustment meetings, when the item was originally heard. He requested those be included as an exhibit to the staff report when items come back to the Board of Adjustment, like in this case, for an extension of time.

Member Stanley asked if it was possible to get a report of TRPA approvals and denials of items approved by Board of Adjustment. Mr. Lloyd stated he can provide an update. DDA Large spoke about other agencies' requirements for approval. Mr. Lloyd noted they still have to have substantial conformance with Washoe County. Chair Hill noted TRPA focuses on protecting the environment during construction process.

11. Director's and Legal Counsel's Items [Non-action item]

A. Report on Previous Board of Adjustment Items

None

B. Legal Information and Updates

None

12. Public Comment [Non-action item]

Any person is invited to speak on any item on or off the agenda during this period. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on an agenda as an action item.

None

13. Adjournment [Non-action item]

The meeting adjourned at 2:34 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in Session on September 2, 2021

Trevor Lloyd
Secretary of the Board of Adjustment

DRAFT